

## RIGHTS IN FORMER GERMAN ISLANDS IN PACIFIC

*Treaty and exchanges of notes signed at Washington February 11, 1922*

*Senate advice and consent to ratification March 1, 1922*

*Ratified by the President of the United States June 2, 1922*

*Ratified by Japan June 23, 1922*

*Ratifications exchanged at Washington July 13, 1922*

*Entered into force July 13, 1922*

*Proclaimed by the President of the United States July 13, 1922*

*Obsolete after World War II*

42 Stat. 2149; Treaty Series 664

### TREATY

The United States of America and Japan;

Considering that by Article 119 of the Treaty of Versailles, signed on June 28, 1919,<sup>1</sup> Germany renounced in favor of the Powers described in that Treaty as the Principal Allied and Associated Powers, to wit, the United States of America, the British Empire, France, Italy and Japan, all her rights and titles over her oversea possessions;

Considering that the benefits accruing to the United States under the aforesaid Article 119 of the Treaty of Versailles were confirmed by the Treaty between the United States and Germany, signed on August 25, 1921,<sup>2</sup> to restore friendly relations between the two nations;

Considering that the said four Powers, to wit, the British Empire, France, Italy and Japan, have agreed to confer upon His Majesty the Emperor of Japan a mandate, pursuant to the Treaty of Versailles, to administer the groups of the former German Islands in the Pacific Ocean lying north of the Equator, in accordance with the following provisions:

“Article 1. The islands over which a Mandate is conferred upon His Majesty the Emperor of Japan (hereinafter called the Mandatory) comprise all the former German islands situated in the Pacific Ocean and lying north of the Equator.

<sup>1</sup> *Ante*, vol. 2, p. 107.

<sup>2</sup> TS 658, *ante*, vol. 8, p. 145, GERMANY.

"Article 2. The Mandatory shall have full power of administration and legislation over the territory subject to the present Mandate as an integral portion of the Empire of Japan, and may apply the laws of the Empire of Japan to the territory, subject to such local modifications as circumstances may require.

The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory subject to the present Mandate.

"Article 3. The Mandatory shall see that the slave trade is prohibited and that no forced labour is permitted, except for essential public works and services, and then only for adequate remuneration.

The Mandatory shall also see that the traffic in arms and ammunition is controlled in accordance with principles analogous to those laid down in the Convention relating to the control of the arms traffic, signed on September 10th, 1919,<sup>3</sup> or in any convention amending same.

The supply of intoxicating spirits and beverages to the natives shall be prohibited.

"Article 4. The military training of the natives, otherwise than for purposes of internal police and the local defence of the territory, shall be prohibited. Furthermore, no military or naval bases shall be established or fortifications erected in the territory.

"Article 5. Subject to the provisions of any local law for the maintenance of public order and public morals, the Mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow all missionaries, nationals of any State Member of the League of Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling.

"Article 6. The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information with regard to the territory, and indicating the measures taken to carry out the obligations assumed under Articles 2, 3, 4, and 5.

"Article 7. The consent of the Council of the League of Nations is required for any modification of the terms of the present mandate.

The Mandatory agrees that, if any dispute whatever should arise between the Mandatory and another member of the League of Nations relating to the interpretation or the application of the provisions of the Mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations";<sup>4</sup>

Considering that the United States did not ratify the Treaty of Versailles and did not participate in the agreement respecting the aforesaid Mandate;

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<sup>3</sup> 7 LNTS 331.

<sup>4</sup> *Ante*, vol. 2, p. 52.

Desiring to reach a definite understanding with regard to the rights of the two Governments and their respective nationals in the aforesaid islands, and in particular the Island of Yap, have resolved to conclude a convention for that purpose and to that end have named as their Plenipotentiaries:

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States; and

His Majesty the Emperor of Japan: Baron Kijuro Shidehara, His Majesty's Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed as follows:

#### ARTICLE I

Subject to the provisions of the present Convention, the United States consents to the administration by Japan, pursuant to the aforesaid Mandate, of all the former German Islands in the Pacific Ocean, lying north of the Equator.

#### ARTICLE II

The United States and its nationals shall receive all the benefits of the engagements of Japan, defined in Articles 3, 4 and 5 of the aforesaid Mandate, notwithstanding the fact that the United States is not a Member of the League of Nations.

It is further agreed between the High Contracting Parties as follows:

(1) Japan shall insure in the islands complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and morality; American missionaries of all such religions shall be free to enter the islands and to travel and reside therein, to acquire and possess property, to erect religious buildings and to open schools throughout the islands; it being understood, however, that Japan shall have the right to exercise such control as may be necessary for the maintenance of public order and good government and to take all measures required for such control;

(2) Vested American property rights in the mandated islands shall be respected and in no way impaired;

(3) Existing treaties between the United States and Japan shall be applicable to the mandated islands;

(4) Japan will address to the United States a duplicate of the annual report on the administration of the Mandate to be made by Japan to the Council of the League of Nations;

(5) Nothing contained in the present Convention shall be affected by any modification which may be made in the terms of the Mandate as recited in

the Convention, unless such modification shall have been expressly assented to by the United States.

### ARTICLE III

The United States and its nationals shall have free access to the Island of Yap on a footing of entire equality with Japan or any other nation and their respective nationals in all that relates to the landing and operation of the existing Yap-Guam cable or of any cable which may hereafter be laid or operated by the United States or by its nationals connecting with the Island of Yap.

The rights and privileges embraced by the preceding paragraph shall also be accorded to the Government of the United States and its nationals with respect to radio-telegraphic communication; provided, however, that so long as the Government of Japan shall maintain on the Island of Yap an adequate radio-telegraphic station, cooperating effectively with the cables and with other radio stations on ships or on shore, without discriminatory exactions or preferences, the exercise of the right to establish radio-telegraphic stations on the Island by the United States or its nationals shall be suspended.

### ARTICLE IV

In connection with the rights embraced by Article III, specific rights, privileges and exemptions, in so far as they relate to electrical communications, shall be enjoyed in the Island of Yap by the United States and its nationals in terms as follows:

(1) Nationals of the United States shall have the unrestricted right to reside in the Island, and the United States and its nationals shall have the right to acquire and hold on a footing of entire equality with Japan or any other nation or their respective nationals all kinds of property and interests, both personal and real, including lands, buildings, residences, offices, works and appurtenances.

(2) Nationals of the United States shall not be obliged to obtain any permit or license in order to be entitled to land and operate cables on the Island, or to establish radio-telegraphic service, subject to the provisions of Article III, or to enjoy any of the rights and privileges embraced by this Article and by Article III.

(3) No censorship or supervision shall be exercised over cable or radio messages or operations.

(4) Nationals of the United States shall have complete freedom of entry and exit in the Island for their persons and property.

(5) No taxes, port, harbour, or landing charges or exactions of any nature whatsoever, shall be levied either with respect to the operation of cables or radio stations, or with respect to property, persons or vessels.

(6) No discriminatory police regulations shall be enforced.

(7) The Government of Japan will exercise its power of expropriation in the Island to secure to the United States or its nationals needed property and facilities for the purpose of electrical communications if such property or facilities cannot otherwise be obtained.

It is understood that the location and the area of land so to be expropriated shall be arranged between the two Governments according to the requirements of each case. Property of the United States or of its nationals and facilities for the purpose of electrical communication in the Island shall not be subject to expropriation.

#### ARTICLE V

The present Convention shall be ratified by the High Contracting Parties in accordance with their respective constitutions. The ratifications of this Convention shall be exchanged in Washington as soon as practicable, and it shall take effect on the date of the exchange of the ratifications.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed this Convention and have hereunto affixed their seals.

DONE in duplicate at the City of Washington, this eleventh day of February, one thousand nine hundred and twenty-two.

CHARLES EVANS HUGHES	[SEAL]
K. SHIDEHARA	[SEAL]

#### EXCHANGES OF NOTES

*The Japanese Ambassador to the Secretary of State*

JAPANESE EMBASSY  
Washington, February 11, 1922

SIR:

In proceeding this day to the signature of the Convention between Japan and the United States with respect to the islands, under Japan's Mandate, situated in the Pacific Ocean and lying north of the Equator, I have the honor to assure you, under authorization of my Government, that the usual comity will be extended to nationals and vessels of the United States in visiting the harbors and waters of those islands.

Accept, Sir, the renewed assurances of my highest consideration.

K. SHIDEHARA

Honorable CHARLES E. HUGHES,  
*Secretary of State.*

*The Secretary of State to the Japanese Ambassador*

DEPARTMENT OF STATE  
*Washington, February 11, 1922*

## EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's Note under date of February 11, 1922, stating that the Japanese Government are quite willing to extend to American nationals and vessels the usual comity in visiting the harbors and waters of the Japanese mandated islands.

Accept, Excellency, the renewed assurances of my highest consideration.

CHARLES E. HUGHES

His Excellency  
Baron KIJURO SHIDEHARA,  
*Ambassador of Japan.*

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*The Secretary of State to the Japanese Ambassador*

DEPARTMENT OF STATE  
*Washington, February 11, 1922*

## EXCELLENCY:

In proceeding this day to the signature of the Convention between the United States and Japan with respect to former German Possessions under a Mandate to Japan, I have the honor to state that if in the future the Government of the United States should have occasion to make any commercial treaties applicable to Australia and New Zealand, it will seek to obtain an extension of such treaties to the mandated islands south of the Equator, now under the Administration of those Dominions. I should add that the Government of the United States has not yet entered into a convention for the giving of its consent to the Mandate with respect to these islands.

I have the honor further to state that it is the intention of the Government of the United States, in making conventions, relating to former German territories under mandate, to request that the governments holding mandates should address to the United States, as one of the Principal Allied and Associated Powers, duplicates of the annual reports of the administration of their mandates.

Accept, Excellency, the renewed assurance of my highest consideration.

CHARLES E. HUGHES

His Excellency  
Baron KIJURO SHIDEHARA,  
*Ambassador of Japan.*

*The Japanese Ambassador to the Secretary of State*

JAPANESE EMBASSY  
*Washington, February 11, 1922*

SIR:

I have the honor to acknowledge the receipt of your note of this date, stating that if in the future the Government of the United States should have occasion to make any commercial treaties applicable to Australia and New Zealand, it will seek to obtain an extension of such treaties to the islands south of the Equator, under the mandate of Australia and New Zealand, and further that it is the intention of the Government of the United States, in making hereafter conventions relating to former German territories under mandate, to request that the Mandatories should address to the United States, as one of the Principal Allied and Associated Powers, duplicates of the annual reports on the administration of such mandated territories.

In taking note of your communication under acknowledgment, I beg you, Sir, to accept the renewed assurances of my highest consideration.

K. SHIDEHARA

Honorable CHARLES E. HUGHES,  
*Secretary of State.*